

Sayali Upasani

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

BAIL APPLICATION NO. 533 OF 2024

Rupraj @ Bhai Raja Patil

...Applicant

Vs.

The State of Maharashtra

...Respondent

**SAYALI
DEEPAK
UPASANI**

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Mr. D. S. Pagare, for Applicant.

Mrs. G. P. Mulekar, APP for State-Respondent No. 1.

CORAM:- N. J. JAMADAR, J.

DATED:- 29th FEBRUARY, 2024.

PC:-

- 1) Heard the learned Counsel for the parties.
- 2) The applicant, who is arraigned in CR No. 132 of 2022, registered with Ulhasnagar Police Station, Thane, for the offences punishable under Sections 302, 323 and 504 read with Section 34 of the Indian Penal Code, 1860, has preferred this application to enlarge him on bail.

3) On 18th March, 2022 at about 2.25 pm, the applicant and co-accused – Nishant @ Bala Hiranman Sathe raked up a quarrel with the first informant and assaulted Kundanmal Sungat (the deceased) by means of fist and kick blows. The applicant had allegedly given a blow by means of a piece of concrete block on the chin of the deceased. Eventually, the deceased succumbed to injuries.

4) The learned Counsel for the applicant submitted that the role attributed to the applicant was that of assault by means of fist and kick blows, and a piece of concrete block. Even if the prosecution case is taken at par, there was no intent to cause the death of the deceased. The applicant has been in custody since 20th March, 2022. It is unlikely that the trial can be concluded within a reasonable period.

5) The learned APP resisted the prayer for bail. It was submitted that the applicant has been indulging in bodily offences. A number of crimes have been registered against the applicant.

6) A chart indicating the crimes registered against the applicant was tendered for perusal of the Court. It appears that three crimes have been registered against the applicant for

bodily offences and one for an offence punishable under Section 4 read with Section 25 of the Arms Act, 1959. Five non-cognizable cases also appear to have been registered against the applicant.

7) I have carefully perused the allegations in the FIR. Prima facie it does not appear that the applicant assaulted the deceased by means of a dangerous weapon on vital part of the body. PM report indicates that the deceased had sustained one CLW over the chin and another over the left parietal region, only. No other external injury was noticed. The Autopsy Surgeon opined that the death was caused due to intracranial bleeding. In the statement under Section 164 of the Code of Criminal Procedure, 1973, the first informant stated that the applicant had given a blow by means of a piece of concrete block on the chin of the deceased.

8) In the circumstances, whether the applicant can be attributed with the necessary intent or knowledge to cause the death of the accused or such bodily injury as was sufficient in the ordinary course of nature to cause death of the deceased, would be a matter for adjudication at the trial.

9) It is true there are few crimes registered against the applicant. However, the offences registered against the applicant do not appear to be of serious nature. Nonetheless, as an apprehension has been expressed that the applicant may tamper with evidence, it may be expedient to impose stringent conditions.

10) I am, therefore, inclined to exercise the discretion in favour of the applicant.

11) Hence, the following order.

: ORDER :

(i) The application stands allowed.

(ii) The applicant Rupraj @ Bhai Raja Patil be released on bail in CR No. 132 of 2022, registered with Ulhasnagar Police Station, Thane, for the offences punishable under Sections 302, 323 and 504 read with Section 34 of the Indian Penal Code, 1860, on furnishing a P.R. Bond in the sum of Rs.30,000/- with one or two sureties in the like amount, to the satisfaction of the trial Court.

(iii) The applicant shall mark his presence at the Sessions Court on the first Monday of every month

between 10.30 am to 12.00 noon for a period of three years or till conclusion of trial, whichever is earlier.

(iv) The applicant shall not tamper with the prosecution evidence and/or give threat or inducement to the first informant and any of the persons acquainted with the facts of the case.

(v) The applicant shall not enter the limits of Ulhasnagar for a period of three years or till the conclusion of the trial, whichever is earlier.

(vi) By way of abundant caution, it is clarified that the observations made hereinabove are confined for the purpose of determination of entitlement for bail and they may not be construed as an expression of opinion on the guilt or otherwise of the applicant and the trial court shall not be influenced by any of the observations made hereinabove.

[N. J. JAMADAR, J.]